IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTIION

Writ Petition No.4231 of 2007

Bhagwati Prasad Nawalgaria ..Petitioner

vs.

Geeta B.Nawalgaria ..Respondent

Shri H.S.S.Murthy i/b Shri N.M.Shah for petitioner.

Shri R.V.Bansale for respondent.

CORAM: S.C.DHARMADHIKARI J.
27th NOVEMBER, 2007

P.C.

1. This petition was admitted by this Court on 9th July, 1997 and at that stage ad-interim order was passed in the following terms:

> "Ad-interim in terms of prayer clause (d) subject to condition that within a period of two weeks from today, the petitioner deposits with the Family Court an amount at the rate of Rs.5000/- per month from the month of February, 2006 till June, 2007, and shall continue to pay until further orders of this Court an amount at the rate of Rs.5000/- per month from the month of July 2007 on or before 10th day of every calender month.

> On the amount being deposited, the Family Court shall permit the respondent-wife to withdraw the amount on furnishing undertaking to bring back the amount if so directed either by this Court or family Court and on such terms and conditions as may be directed by the Court.
>
> In case the petitioner fails to deposit the amount within the aforesaid period, this petition itself shall be treated as dismissed."

Shri Shah states that the order passed by this Court has been complied with and he would continue to comply with the direction of payment of Rs.5000/- p.m. without prejudice to the rights and contentions of the parties provided considering the peculiar facts of this case he is granted liberty to apply for modification/variation of the order. This request is not opposed seriously by the wife as the record shows that enough opportunity to putforth his case was not granted by the Family

Court to the husband. In the peculiar facts of this case the writ petition stands disposed of by granting liberty to the petitioner to apply for modification and/or variation of the impugned order within four weeks from today provided the petitioner continues to pay Rs.5000/- p.m. as directed by this Court till his interim application is disposed of. If the application is not preferred within a period of four weeks from today, then, liberty to apply for modification or variation of the order stands forfeited and the order of the Family Court would stand confirmed and the petitioner would have to abide by it and face consequences in law. Rule made absolute in the above terms. No costs.

(S.C.DHARMADHIKARI J.)